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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,435	07/25/2003	Kevin L. Parsons	8342-89801	2344
24628	7590	06/28/2005	EXAMINER	
WELSH & KATZ, LTD 120 S RIVERSIDE PLAZA 22ND FLOOR CHICAGO, IL 60606			LEE, GUIYOUNG	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/627,435

Applicant(s)

PARSONS ET AL.

Examiner

Guiyoung Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 15-25, 28-36, 39-50 and 54 is/are rejected.
- 7) ☒ Claim(s) 12-14, 26, 27, 37, 38 and 51-53 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1104.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 30-31 and 34-58 have been renumbered 28-54.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5, 10-11, 15-20, 24-25, 28-31, 33, 35-36, 39-44, 49-50, and 54 are rejected under 35 U.S.C. 102(e) as being anticipated by Bruwer (US 6,249,089 B1) cited by Applicant.

4. Re claims 1, 16, 29, and 40: Bruwer discloses a flashlight and a method of operating the flashlight having a momentary contact (102 in Fig. 2) provided on a body of the flashlight for activating a light source of the flashlight and for selection of any of a plurality of different operating mode; and means (201) for detecting entry of an input code through the momentary contact where the input code identifies one of plurality of operating modes; and means (202) for operating the light source in accordance with identified mode.

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Re claims 2-5, 10-11, 15, 17-20, 24-25, 28, 30, 35-36, 39, 41-44, 49-50, and 54: Bruwer discloses various operating mode including an on/off mode and a flashing mode (col. 10, lines 3-34). Bruwer further discloses activating the momentary contact switch a plurality of times in rapid succession to select an SOS mode (col. 10, lines 25-34). Further, Bruwer discloses a Morse code light signal for the letters SOS (col. 7, lines 30-33).

Re claim 31: Bruwer discloses a timer subroutine (Fig. 16-17).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6-9, 21-23, 32-34, and 45-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brewer (USPT 6,621,225 B2).

Re claims 6-9, 21-23, 32-34, and 45-48: Bruwer does not disclose a step of activating the momentary contact continuously for 5 seconds or the steps of exiting the flashing mode and the on/off mode. However, Bruwer teaches that “ commands can be entered through switch 102 in several different ways -- -- various time sequences of closed and open activations may represent different commands (col. 10, lines 25+)”. Although Bruwer does not disclose specifically the step of activating momentary contact continuously for 5 second or the steps of exiting the flashing mode and the on/off mode, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify Bruwer’s switch to include the steps of activating

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momentary contact continuously for 5 second or the steps of exiting the flashing mode and the on/off mode because it is one of the different ways of entering input command through the switch as Bruwer taught above, and such modification would have involved a mere change in the input command or a mere reversal of the input command and such modification of input command would be within the level of ordinary skill in the art.

Allowable Subject Matter

7. Claims 12-14, 26-27, 37-38, and 51-53 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: Although the prior art of record, Bruwer, discloses the step of selecting the SOS mode, Bruwer fails to disclose the step of activating the momentary contact three times to select the SOS mode wherein each activation is no more than one-half second apart.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Guiyoung Lee whose telephone number is 571-272-2374. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LGY



Sandra O'Shea
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